

Message Text

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63

ACTION ARA-10

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC 4758

C O N F I D E N T I A L QUITO 1707

E.O. 11652: GDS

TAGS: ETRD, EINV, EC

SUBJ: ELIGIBILITY FOR GSP UNDER NATIONALIZATION AND ARBITRATION
PROVISIONS

REF: STATE 022760

1. ALTHOUGH ECUADOR IS PRESENTLY INELIGIBLE FOR GSP BECAUSE OF ITS MEMBERSHIP IN OPEC, CONGRESSIONAL ACTION MAY REMOVE THAT INELIGIBILITY. THEREFORE THIS MESSAGE RESPONDS TO REFTEL REQUEST FOR STATUS REPORT ON OUTSTANDING BUSINESS DISPUTES IN ORDER TO ASSIST DEPARTMENT IN DETERMINING ELIGIBILITY FOR GSP UNDER NATIONALIZATION AND ARBITRATION PROVISIONS OF THE TRA, SECTIONS 502 B PARAGRAPHS (4) AND (6) OF TITLE V. EMBASSY BELIEVES ECUADOR IS CURRENTLY ELIGIBLE FOR GSP UNDER THESE PROVISIONS.

2. ADA CASE. ADA BUSINESS DISPUTE ARISES FROM THE CANCELLATION IN NOVEMBER 1972 OF ADA EXPLORATION CONCESSION CONTRACT OVER ALLEGEDLY FRAUDULENT ORIGINS OF THE AWARD. A GOE SPECIAL TRIBUNAL TRIED AND CONVICTED NUMEROUS ECUADOREANS AND ONE AMERICAN CITIZEN IN ABSENTIA IN 1973 IN CONNECTION WITH THE ORIGINS OF THE ADA CONTRACT. ADA CONSORTIUM CLAIMS A GLOBAL EXPENDITURE OF \$28 MILLION UNDER ITS CONTRACT. ON VARIOUS
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OCCASIONS IN 1974 GOE OFFICIALS ASSURED AMBASSADOR ORALLY THAT

GOVERNMENT POLICY IS TO COMPENSATE ADA IN SOME AMOUNT FOR PRIOR "USEFUL INVESTMENTS". THE LEGAL AND AUDIT SUBCOMMISSIONS OF A CABINET LEVEL COMMISSION ESTABLISHED IN AUGUST 1974 ARE CONTINUING A THOROUGH EVALUATION OF THE ADA INVESTMENT. GOE ALSO INSERTED A CLAUSE IN BIDDING DOCUMENTS ON FORMER ADA CONCESSION OBLIGATING NEXT HOLDER OF EXPLORATION RIGHTS TO PAY GOE FOR PRIOR USEFUL INVESTMENTS. NORTHWEST PIPELINE CORPORATION OF USA AND GOE HAVE MADE A PRELIMINARY ASSOCIATION CONTRACT CONTAINING THIS OBLIGATION. THEIR CONTRACT IS EXPECTED TO BE APPROVED IN MARCH OR APRIL 1975. DISPUTE RESOLUTION PROCESS THEREFORE CONTINUES IN MOTION.

3. ITT/AACR. ITT BUSINESS DISPUTE IS A RESIDUAL CLAIM ARISING FROM THE SUCCESSFUL SETTLEMENT OF THE NATIONALIZATION OF AACR TELECOMMUNICATIONS BUSINESS BY THE PREVIOUS GOE. THE 1971 SETTLEMENT CALLED FOR A \$600,000 CASH PAYMENT AND A RETURN TO ITT OF TWO UNDEVELOPED AACR URBAN LOTS IN QUITO AND GUAYAQUIL. GOE MADE THE CASH PAYMENT BUT SUDDENLY EXPROPRIATED THE LOTS IN JANUARY 1972. THE PRESENT GOVERNMENT ASKED THE COURTS IN 1973 TO ENFORCE THE DECREE. THE GUAYAQUIL COURT UPHELD THE DECREE IN 1974 WITH THE QUITO COURT EXPECTED TO FOLLOW SUIT. THE DECREE PROVIDES INDEMNIFICATION AT TAX ASSESSED VALUE OF APPROXIMATELY \$120,000 WHILE ITT HAS ASSERTED THE LOTS ARE WORTH \$1.2 MILLION. CONCLUDING THAT A REVISION OF THE DECREE WOULD NOT OCCUR, ITT EXPLORED IN 1973-74 THE POSSIBILITY THAT THE GOE MIGHT FACILITATE OTHER ITT ACTIVITIES, E.G., SALES BY STANDARD ELECTRIC AND INVESTMENT BY SHERATON, AS AN OFFSET TO THE LAND EXPROPRIATION. WHILE OFFERING TO FACILITATE ITT ACTIVITIES, GOE WAS NOT PREPARED TO MAKE A DIRECT LINKAGE OF ANY OTHER ACTIVITY WITH AACR LAND CLAIM. GOE VIEWS THE LAND EXPROPRIATION CASE AS A LEGAL CONDEMNATION PROCEEDING FOR PUBLIC PURPOSES. ITT MAY SERVE ITS OVERALL INTERESTS BEST BY ACCEPTING COURT-AWARDED COMPENSATION AND EXPLORING OTHER SALES/ INVESTMENT OPPORTUNITIES WITH GOE.

4. MINAS Y PETROLEOS. CASE AROSE THROUGH GOVERNMENT CANCELLATION OF CONSORTIUM'S PETROLEUM EXPLORATORY CONCESSION IN FEBRUARY 1973 FOLLOWING MINAS Y PETROLEOS DECISION NOT TO JOIN OTHER EXPLORATORY CONSORTIA IN PAYING INCREASED SURFACE RENTLAS FOR THE YEAR 1972 THAT WERE LEVIED UPON THE OIL COMPANIES IN

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NOVEMBER OF THAT YEAR. CONSORTIUM HAS STATED THAT IT SPENT \$18 MILLION IN OBTAINING CONCESSION AND IN EXPLORATION. AFTER CANCELLATION OF THE CONCESSION, CONSORTIUM REPRESENTATIVES INQUIRED ABOUT THE POSSIBILITY OF AN EXPROPRIATION CLAIM WITH EMBASSY AND DEPARTMENT OFFICERS BUT MADE NO CLAIM BEFORE EITHER GOE OR USG. CONSORTIUM COMPANIES ONLY SUBSEQUENT ACTION OF WHICH EMBASSY IS AWARE WAS PUBLICATION HERE OF A FEBRUARY 28, 1974 LETTER TO STATE OIL COMPANY MANAGER. LETTER PROTESTED

INCLUSION OF A PORTION OF THE MINAS AREA IN A BLOCK PUT UP BY
GOE FOR INTERNATIONAL BIDDING. LETTER ASSERTED CONSORTIUM'S
CONTINUING CONTRACTUAL RIGHTS IN THE CONCESSION AREA AND SAID
COMPANIES HAVE DESIRED TO NEGOTIATE A MUTUALLY SATISFACTORY
AGREEMENT WITH GOE TO CONTINUE EXPLORATION AND DEVELOPMENT OF
THE CONCESSION. IN FACT, THE CASE IS INACTIVE.
BREWSTER

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